

respondents were obviously betraying their embarrassment and were hopeful that I would be put off or that the issue would be clouded by their frivolous replies. I am not to be put off; there is too much at issue.

When the Minister of Fisheries and the Environment (Mr. LeBlanc) displays petulance in this House at failure of a colleague to inform him of a matter which encroaches on his sphere of interest, concern and responsibility, and when he displays that petulance by spitting out that, in his view, somebody goofed—not in his department but in the Department of Indian Affairs and Northern Development—by not informing the Department of Fisheries and the Environment, there is obviously something important at issue. It was clear from the context that the goof was in the Department of Indian Affairs and Northern Development.

This is how it all began. In September of 1977 an Indian band in British Columbia passed a bylaw claiming sole jurisdiction over fish passing through the reserve. On the face of it, this is perhaps no great deal, but section 91(12) of the BNA Act assigned to the Parliament of Canada exclusive legislative jurisdiction over sea, coast and inland fisheries. This responsibility for exercising jurisdiction is, by statute, passed on to the Minister of Fisheries. It is clear, therefore, that there was a conflict of jurisdiction in the making between that claimed by the Indian band, on the one hand, and that assigned by the BNA Act to the Parliament of Canada.

● (2212)

The Minister of Indian Affairs and Northern Development has certain responsibilities here too. All bylaws passed by the Indian bands are to be sent to his department where he is to vet them, and if he considers any as claiming the exercise of powers beyond those to which the Indian band is entitled, he can disallow them under section 82, but he must do so within 40 days. That was not done. Therefore, by November or December of 1977 the bylaw became law.

Now we have to ask ourselves: was this an administrative slip-up or was it deliberate? Were the ministers' advisers not aware of the provisions of the BNA Act? If they were not, I think I am entitled to ask why they are the ministers' advisers. Did the minister decide on his own to withhold his powers of disallowance? We do not know. We can suspect, but we do not know for sure.

We do know, however, that the Minister of Fisheries was unaware of this development until it was brought to his attention in May or June of this year, six months later. How is the Minister of Fisheries to exercise his responsibilities under the constitution and under the statute if part of his jurisdiction is taken from him? The parliamentary secretary who will reply was parliamentary secretary to the Minister of Fisheries at the time, and he is in a spot. How can the Minister of Fisheries exercise his responsibilities in the international field, let alone the domestic field—that is, how can he exercise his responsibilities internationally with credibility—when he cannot assure his foreign counterparts that the management of the

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fisheries in Canada is entirely within his hands? He cannot say that now.

These were not frivolous, silly or goofy questions. These are serious questions going right to the heart of our constitution and the credibility of this government. The Minister of Indian Affairs and Northern Development might very well have had a scheme to extend some measure of jurisdiction, to winkle away from the Minister of Fisheries some jurisdiction which properly belonged to him. Why otherwise did he not alert his colleague that the bylaw would be encroaching on the jurisdiction of the Minister of Fisheries?

What makes me think that the Minister of Indian Affairs and Northern Development deliberately refrained from disallowing this bylaw is that I have another document which was prepared within the Department of Indian Affairs and Northern Development indicating that revisions of the Indian Act are in the offing and that they contain proposals to extend wide powers to Indian bands over fishing and hunting. If we get into the hunting business, we are into another department, namely, the Department of the Environment, because the minister has certain responsibilities with respect to the Migratory Birds Convention Act. What the Minister of Indian Affairs and Northern Development is doing is involving not only the Minister of the Environment but the Secretary of State for External Affairs (Mr. Jamieson) in bilateral relations with our neighbour to the south. Is the Department of Indian Affairs and Northern Development now deciding to take upon itself the rewriting of our bilateral agreements? Should it be proposing legislation which would require Canada to open a treaty with a friendly power?

To come back to the fisheries, let me point out that the main problem, of course, is fisheries management. Management cannot be effective under two sets of managers, and I think the parliamentary secretary would probably agree if he were free to speak his own mind, particularly when each has its own separate objectives. No one is questioning the Indians' claim to a food fishery, or a food hunt for that matter. That is and can always be within their respective rights, but it is not clear how far this claimed jurisdiction would go into commercial fishing. Commercial fishing is legitimate and under licence by the Minister of Fisheries and the Environment. I feel these questions deserve straightforward answers.

● (2217)

Mr. Hugh A. Anderson (Parliamentary Secretary to Minister of Indian Affairs and Northern Development): Mr. Speaker, first may I say that recent problems in British Columbia concerning Indian fishing are merely symptoms of long-standing issues and uncertainties surrounding Indian fishing rights. As the hon. member is no doubt aware, the allocation of our increasingly pressured fish and game resources among different and competing sectors of society is a complex task. This situation forms the backdrop against which we are trying to find solutions to some of our current problems, solutions which will be compatible with legitimate Indian rights as well as with the exigencies of modern resource management.